

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
RICKEY LYNCH,

Petitioner,

MEMORANDUM & ORDER

10-CV-6068 (JS)

-against-

MICHAEL SPOSATO, SHERIFF OF
NASSAU COUNTY, et al.,

Respondents.

-----X
APPEARANCES:

For Petitioner: Rickey Lynch, pro se
092440
Suffolk County Correctional Facility
110 Center Drive
Riverhead, NY 11901

For Respondents: Jason Richards, Esq.
Nassau County District Attorney's Office
262 Old Country Rd.
Mineola, NY 11501

SEYBERT, District Judge:

On December 22, 2010, Petitioner Rickey Lynch commenced this action seeking a writ of habeas corpus under 28 U.S.C. § 2254. Petitioner alleges that Respondent, Nassau County, has unconstitutionally denied him a bail hearing for more than eight months. Lynch Aff. ¶¶ 3-6, 15-18, 22-34. Based on these allegations, Petitioner asserts two grounds for relief: (1) denial of a right to reasonable bail; and (2) prosecutorial misconduct.

Given the severity of Petitioner's allegations, the Court afforded Respondent only three days to show cause why the requested relief should not be granted. The Court now apologizes to

Respondent, to the extent that this expedited schedule imposed any unnecessary hardships. For, based on Respondent's Opposition, it is clear that Petitioner has attempted a fraud on the Court. Respondent reports that Petitioner was arraigned on February 18, 2010 and that, that same day, the state court set bail in the amount of \$100,000. Richards Aff. ¶¶ 7, 9. Petitioner was then released on bail on July 13, 2010. Id. ¶ 9. So, not only was Petitioner afforded a bail hearing, he was actually released on bail. The fact that Petitioner is now in the custody of another county, Suffolk County, based on unrelated charges, is not Respondent's concern. Richards Aff. ¶¶ 10, 13.

Petitioner's § 2254 Petition is DENIED. The Court will not issue a Certificate of Appealability. The Clerk of the Court is directed to mark this matter as CLOSED.

SO ORDERED

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: January 31, 2011
Central Islip, New York